

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

| | | |
|---------------------------------|---|------------------------------------|
| UNITED STATES OF AMERICA |) | Criminal No. 1:21-CR-393 (DNH) |
| |) | |
| v. |) | JOINT STIPULATION AND ORDER |
| |) | FOR CONTINUANCE |
| CHRISTOPHER PENCE, |) | |
| |) | |
| Defendant. |) | |

Eric K. Schillinger, Esq., the attorney for **CHRISTOPHER PENCE** having moved for an additional continuance of 60 days in the above-captioned action, and Carla B. Freedman, United States Attorney for the Northern District of New York, Assistant U.S. Attorney Emmet J. O'Hanlon, appearing, having consented to the continuance and proposed the exclusion of the additional 60-day period of continuance under the Speedy Trial Act, the parties hereby stipulate and agree as follows:

- 1) The prior proceedings in this case occurred as follows:
 - a) Date of complaint: October 27, 2021
 - b) Date of indictment: November 9, 2021
 - c) Date of initial appearance on indictment: February 8, 2022
 - d) Defendant custody status: detained
- 2) The Court has previously ordered the following periods of post-indictment time excluded under the Speedy Trial Act based on joint stipulation by the parties.
 - a) From March 30, 2022, until May 28, 2022. (Dkt. 12.)
 - b) From June 1, 2022, until July 30, 2022. (Dkt. 14.)
 - c) August 2, 2022, until September 30, 2022. (Dkt. 16.)
 - d) September 30, 2022, until November 27, 2022. (Dkt. 18.)


- e) February 8, 2023, until April 10, 2023. (Dkt. 29.)
 - f) April 10, 2023, until June 9, 2023. (Dkt. 31.)
 - g) June 9, 2023, until August 8, 2023. (Dkt. 41.)
 - h) August 9, 2023, until October 10, 2023. (Dkt. 49.)
- 3) The following period of post-indictment time is concurrently excluded, pursuant to 18 U.S.C. § 3161(h)(1)(D), while the defendant's Motion to Suppress Statements and Evidence (Dkt. 21), which is fully briefed and pending a decision by the Court:
- a) From December 20, 2022, through the present.
- 4) CHRISTOPHER PENCE has requested the continuance based on the following facts and circumstances:
- a) Additional time is required for the Court to resolve the defendant's pending Motion to Suppress Statements and Evidence (Dkt. 21) – for which post-hearing briefs were submitted by the parties on July 21, 2023 – and for the parties to negotiate a pre-trial disposition and/or prepare for trial. Accordingly, the delay is necessary in order to allow the parties the reasonable time necessary for effective preparation, taking into account the exercise of due diligence (3161(h)(7)(B)(iv)).
- 5) The parties stipulate and agree that the ends of justice served by granting this continuance outweigh the best interests of the public and the defendant in a speedy trial because additional time is required for the Court to resolve the defendant's pending Motion to Suppress Statements and Evidence (Dkt. 21) – for which post-hearing briefs were submitted by the parties on July 21, 2023 – and for the parties to negotiate a pre-trial disposition and/or prepare for trial, which will allow the parties the reasonable time necessary for effective preparation, taking into account the exercise of due diligence (3161(h)(7)(B)(iv)).

6) The parties stipulate and agree that a period of 60 days beginning on and including the date on which the Court signs the requested order shall be excludable under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A) and (h)(7)(B)(iv).


7) The undersigned attorneys affirm under penalty of perjury the accuracy of the facts set forth above and apply for and consent to the proposed order set forth below.

Dated: October 10, 2023

CARLA B. FREEDMAN
United States Attorney

By: 
Emmet J. O'Hanlon
Assistant United States Attorney
Bar Roll No. 519779

Dated: October 11, 2023

By: 
Eric K. Schillinger, Esq.
Attorney for CHRISTOPHER PENCE
Bar Roll No. 516083

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| UNITED STATES OF AMERICA |) | Criminal No. | 1:21-CR-393 (DNH) |
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| CHRISTOPHER PENCE, |) | | |
| |) | | |
| Defendant. |) | | |

ORDER

The Court incorporates into this Order the stipulated facts set forth above and hereby adopts them as findings.

1. The Court has considered its obligation under 18 U.S.C. § 3161(h)(7)(A) to determine whether a continuance serves the ends of justice in a manner that outweighs both the public interest and the defendant's rights. The Court finds that pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice served by granting the requested continuance outweigh the best interests of the public and the defendant in a speedy trial because additional time is required for the Court to resolve the defendant's pending Motion to Suppress Statements and Evidence (Dkt. 21) – for which post-hearing briefs were submitted by the parties on July 21, 2023 – and for the parties to negotiate a pre-trial disposition and/or prepare for trial, which will allow the parties the reasonable time necessary for effective preparation, taking into account the exercise of due diligence (18 U.S.C. § 3161(B)(iv)).

BASED ON THE STIPULATED FACTS AND THE COURT'S RELATED FINDINGS IT IS HEREBY ORDERED:

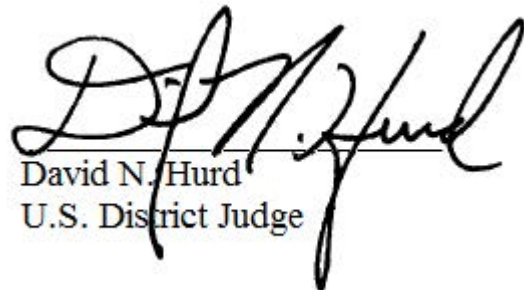
A period of 60 days, beginning on and including the date of this Order shall be excludable in computing time under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A) and (h)(7)(B)(iv) in order to give the parties the reasonable time necessary for effective preparation.

Any pretrial motions in this case shall be filed on or before November 10, 2023 and shall be made returnable as directed by the Court.

The trial in this matter shall begin on Monday December 11, 2023 at 9:30am before United States District Judge David N. Hurd in Utica, New York or, in the alternative, a change of plea shall be entered upon request of counsel.

IT IS SO ORDERED.

Dated and entered October 11, 2023.



David N. Hurd
U.S. District Judge